

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, December 7, 2011
Time	Noon – 1:30 p.m.
Location	Utah State Capitol Complex, Senate Bldg., Copper Room
Members Present	Judge Kevin Allen, Heidi Buchi for Patrick Anderson, Paul Boyden, Susan Burke, Clark Harms for Curt Garner, Ron Gordon, Rep. Richard Greenwood, Judge Thomas Low, Mark Moffat, Judge Ric Oddone, Judge Gregory Orme, Mike Haddon for Tom Patterson, Sy Snarr, Scott Reed for Kirk Torgensen, Carlene Walker
Members Excused	David Brickey, Judge Janice Frost, Marlene Gonzalez, Senator Ben McAdams, , Benjamin McMurray, Chief Ed Rhoades, Rep. Jennifer Seelig, Doyle Talbot, Senator Dan Thatcher, Sheriff James Winder
Staff & Visitors	Staff: Jo Lynn Kruse, Dr. Ben Peterson, Jacey Skinner, David Walsh Visitors: Tom Brunner, Marina Lowe, Scott Reed, Rick Schwermer
Agenda Item	Welcome and Approval of Minutes
Notes	Carlene Walker called the meeting to order and welcomed everyone. The October minutes were not approved because no quorum was present at that point in the meeting. Carlene was happy to announce that the Governor has appointed Curt Garner as a District Court Judge to the Third District Court.
Agenda Item	Recognition of Departing Member Doyle Talbot
Notes	Carlene noted that Doyle Talbot's term as the Chair of the Youth Parole Board has expired and accordingly will no longer be serving on the Commission. She expressed thanks for his service on the Commission. Doyle could not attend today, but will be invited back so we may recognize his efforts.
Agenda Item	Report on LSI Training
Notes	Carlene said that the LSI training by Larry Chatterton of AP&P arranged by CCJJ went very well and was worthwhile. The LSI-R (Level of Services Inventory – Revised) is a risk and needs assessment used by the Department of Corrections to assist in sentencing recommendations and offender management. The LSI guides assessment, classification and offender management planning for offenders in the community and prior to release from prison. Please let Jacey know if you are interested in future LSI training sessions.
Agenda Item	White Collar Crimes and the Sentencing Guidelines
Notes	<p>Last month the Commission discussed an article in the Salt Lake Tribune on penalties for white collar crimes related to the sentencing of a Morgan County Administrator. The Sentencing Commission has received a request to discuss the matter and to see if we think the penalties for these offenses are proportionate and appropriate.</p> <p>Kirk Torgensen provided a few examples of cases and questioned whether the sentencing matrix adequately addresses the nuances of these types of offenses. He is frustrated to see the perpetrator elude jail/prison time so that they can work to pay restitution, and ultimately pay very little or no restitution. Judge Allen stated that the Sentencing Commission suggested that the Commission should make a policy statement but was resistant to changing the sentencing matrix. Clark Harms suggested the possibility of a severity enhancement, not a sentencing enhancement. It was noted that any changes to statute would have a substantial fiscal note attached. Judge Low suggested that we form a subcommittee to review the issue. The following commissioners volunteered to serve on the subcommittee: Clark Harms, Scott Reed, Mike Haddon or Tom Patterson, Paul Boyden, Mark Moffat or Patrick Anderson, and Judge Allen. Jacey will facilitate the subcommittee.</p>
Agenda Item	Death Penalty Related Issues
Notes	Mike Haddon discussed an ongoing issue regarding the procurement of drugs needed to carry out lethal injection in death sentence cases. The drug companies that manufacture these drugs are

	<p>refusing to supply them to prisons in the U.S. because they do not wish to have their product/company name associated with the death penalty. Maintaining a supply is inefficient, because the drugs have expiration dates.</p> <p>There is a real possibility that the Department of Corrections will be unable to obtain the drugs needed for the purpose of lethal injection for future executions. We are currently two to three years away from the next execution but will definitely have to deal with this situation at some point. Mike's question to the Commission is whether we should investigate this now or wait? Judge Oddone made the motion to form a subcommittee after the legislative session is over to review what is occurring in other states and determine if we need to modify Utah Code. Sy Snarr seconded the motion which passed unanimously. Judge Low and Judge Allen abstained. Kirk Torgensen, Sy Snarr, Mark Moffat, Judge Oddone and Ron Gordon volunteered to serve on this subcommittee.</p>
Agenda Item	Fiscal Notes for Criminal Penalties
Notes	<p>Marina Lowe, ACLU Legislative and Policy Counsel, presented a sample of a Colorado law concerning a requirement to include additional information in fiscal notes for certain bills related to criminal offenses. Marina wonders if fiscal notes for criminal penalties should be different than typical fiscal notes. A lot of states are currently looking at this issue to reduce costs and there seems to be a lot of fiscal note reform on the basis that legislators have to rely on accurate and complete information in order to pass legislation. The penal system is typically the recipient of a large portion of taxpayer dollars. The Commission discussed this question and concluded that it would be better to address the issue by rule than to require it by statute. The Commission further commented that all of the information in the sample legislation is considered by various State agencies and is typically provided to the Legislative Fiscal Analyst, although that information is then distilled for general distribution and is not typically available to the public or the legislature as a whole. The Commission also noted that all of the referenced information is typically passed on to the members of the Legislature, through Jacey, as the Director of the Commission, consistent with the Commission's statutory charge, or through other agency heads.</p>
Agenda Item	Executive Committee
Notes	<p>Carlene Walker discussed the Executive Committee for the upcoming legislative session. Traditionally, the Sentencing Commission holds an executive meeting once a week with CCJJ during the legislative session to take positions on various pieces of legislation. Those attending on behalf of the Commission will officially include Carlene Walker, Paul Boyden, and Patrick Anderson. Additionally, Ron Gordon, Tom Patterson, Susan Burke and a representative from the Board of Pardons will be present to provide input and take positions on legislation. Several members of the Commission had left at this point, so a vote was not taken. This vote will occur in the January meeting. The executive committee will take positions on legislation and then send an email to the Commission and ask for additional input/feedback.</p>
Next Meeting	The next meeting will be on January 4, 2012, Utah State Capitol Complex, Senate Bldg., Copper Room.

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ